

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Anthony Pellegrini, et al.,

Plaintiffs,

v.

THERMO FISHER SCIENTIFIC, INC.,

Defendant.

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CIVIL ACTION NO. _____

PLAINTIFFS' ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiffs ANTHONY PELLIGRINI, MARICELA BASABE, ISABEL BASABE, KATHERINE CASSATT, LAURIE CLAUSSEN, FELIPE DELGADO, JONATHAN FLETCHER, EVELYN HARPER-FORD, LINCOLN JACKSON, DAVID KOCH, MARGARET LAEPPERT, CHIEU LE, BARRINGTON LEE, PAM LINDEMAN, BARRY MALT, KEVIN MCAFEE, LANNIE MCCORMICK, MARK MCMURRY, MOHAMMAD MOHIUDDIN, KIM PHAM, SUSAN REID, SOHEIL RIAHY, RAY TORRES, HOA TRAN, TUAN TRAN, FAROOQ VAID, YOLANDA GARCIA, SHIELA FRANKS, FRANK TEPE, CARLOS AREVALO RODRIGUEZ, MINH PHU, MINH NGUYEN, THUY NGUYEN, CAROL BELL, EUNICE BAUSLEY, MEAGAN DIECKMANN, JEANETTE FLEMING, DENNIS LAEPPERT, TERRY HINKLE, FABRICIA JAHNAL, RUDY LOFRANCO, CECIL MCCREERY, MICHELLE MCCREERY, GLORIA LAPIDUS-NINO, TINA NEWSOME-TERRELS, LESLEY O'NEAL, BILLY PHU, JERRY POWELL, PAULA TYLER, STEVE VIRO, MARIELLE VEROT, ANN MULDER, PATRICK YOUNG, EZEQUIEL PALACIOS, DAVID CASTANEDA, MARIA BADIEE, THANH HUYNH, RICHARD GELLASCH, ANISHA OGBOR-VASQUEZ, LLOYD RUIZ JR., DOUG

FRYE, ALLEN BISHOP, KEN JAMISON, JOHN VARGHESE, VOTHI GREENWOOD, GEORGE GREENWOOD, BARRY NICHOLSON, WALLACE TROCHESSET, SANDOVAL CRUZ, THERESA RAMANANARIVE, MICHAEL LE, CHRISTINE LE, CALLIE PRICE as Representative of the ESTATE OF MAURICE PRICE (DECEASED), ROBBIN GERSCH, JILL MITCHELL, LEE MITCHELL, FRANK NGUYEN, TRAVIS MILLER, OSCAR DEBANOKI, DANA HARRIS, BARBARA VALCHAR, DENNIS GLENDENNING, LAKEISHA FORD, ANDREW MARSDEN, PASCHAL AKUCHIE, ANDREA ANAYA, MICHELE BOEHM, GARY BOOSTROM, GREG BRUMFIELD, JACOB BURG, SANDY COLE, MAGGIE CLINE, individually, and as the representative of THE ESTATE OF EVELYN PAGANOTTI (DECEASED), TODD COLIN, DORIS GRAYDAN, LA'NETTE GREEN, ARTURO GUERRA, SUSAN HARRIS, GRAHAM HOLLAND, MICHAEL HUDSON, FEBY JOSE, MITCHELL KISINGER, JEFFREY MACMILLAN, ALEJANDRO MORENO VILLAREAL, ROBERT MUSCAT, JAMES NGUYEN, TAMIR RAGONIS, MARVIN SMITH, LORENA SPENCER, DEEPAK SUGATHAN, ERIC MACHEN, GARY PURKISS, BRUCE FRANKE, and SUSAN THOMAS ("Employee Plaintiffs"); PHUONG MAI NGUYEN, individually, and as Representative of the ESTATE OF JOHNNY AU (DECEASED), and LOIS BURG, individually, and as Representative of the ESTATE OF DONALD BURG (DECEASED); and JOSHUA BURG, BUD DIECKMANN, EVAN DIECKMANN, AMELIA HATLEY, MARY-ELIZABETH HATLEY, MATTHEW JORDAN, CHRISTOPHER PRICE, DEMETRIUS PRICE, MAURICE PRICE, JR., ANGELA CONLEY, BENJAMIN RIDEOUT, TRACEY FORBUS, CAMERON HOFF, SHERRIE HOFF, JAMES NEELY, PATIENCE NEELY, TAMMY NEELY, LAURYN VOTANO, VICTORIA VOTANO, BRIDGETTE WALLS, individually, and as representative of the ESTATE OF DONALD WALLS

(DECEASED), KRISTINA KEY, KIMBERLY KOCH (“Non-Employee Plaintiffs”) (collectively, “Plaintiffs”), by and through their attorneys, complaining of Defendant THERMO FISHER SCIENTIFIC, INC. (“Thermo”) and for cause of action would respectfully show the Court as follows:

I. PARTIES

1. Employee Plaintiffs Anthony Pelligrini, Isabel Basabe, Maricela Basabe, Carlos Arevalo-Rodriguez, Carol Bell, Katherine Cassatt, Sandy Cole, Laurie Claussen, Maggie Cline, Todd Colin, Felipe Delgado, Jonathan Fletcher, Lakeisha Ford, Shiela Franks, Yolanda Garcia, Arturo Guerra, Graham Holland, Michael Hudson, Lincoln Jackson, David Koch, Margaret Laeppert, Chieu Le, Pam Lindeman, Barry Malt, Kevin McAfee, Lannie McCormick, Mark McMurry, Mohammad Mohiuddin, Alejandro Moreno Villareal, Frank Nguyen, James Nguyen, Minh Nguyen, Lesley O’Neal, Kim Pham, Minh Phu, Susan Reid, Soheil Riahy, Lorena Spencer, Deepak Sugathan Frank Tepe, Susan Thomas, Ray Torres, Hoa Tran, Tuan Tran, Paula Tyler, Farooq Vaid, Lakeisha Ford, Paschal Akuchie, Andreana Ayana, Johnny Au, Maria Badiee, Eunice Bausley, Allen Bishop, Michele Boehm, Gary Boostrom, Greg Brumfield, Donald Burg, David Castaneda, Sandoval Cruz, Oscar Debanoki, Meagan Dieckmann, Jeanette Fleming, Doug Frye, Richard, Gellasch, Robbin Gersch, Dennis Glendenning, Doris Graydan, La’Nette Green, Vothi Greenwood, George, Greenwood, Evelyn Harper-Ford, Susan Harris, Terry Hinkle, Thanh Huynh, Fabricia Jahnal, Ken Jamison, Feby Jose, Mitchell Kisinger, Dennis Laeppert, Christine Le, Michael Le, Barrington Lee, Rudy Lofranco, Jeffrey MacMillan, Andrew Marsden, Cecil McCreery, Michelle McCreery, Raul Melgar, Travis Miller, Lee Mitchell, Ann Mulder, Robert Muscat, Gloria Lapidus-Nino, Tina Newson-Terrels, Thuy Nguyen, Barry Nicholson, Evelyn Paganotti, Ezequiel Palacios, Billy Phu,

Jerry Powell, Maurice Price, Tamir Ragonis, Marvin Smith, Theresa Ramananarive, Eric Machen, Lloyd Ruiz Jr., Wallace Trochesset, Barbara Valchar, John Varghese, Anisha Vasquez-Ogbor, Marielle Verot, Steve Viro, Patrick Young, Bruce Franke, Gary Purkiss, are Texas residents, and Dana Harris, currently a New York resident, are all former Thermo employees impacted by leaks that occurred at Thermo's facility in Sugar Land, TX.

2. Non-Employee Plaintiffs Phuong Mai Nguyen, Jacob Burg, Lois Burg, Angela Conley, Bud Dieckmann, Evan Dieckmann, Benjamin Rideout, Tracey Forbus, Amelia Hatley, Mary-Elizabeth Hatley, Sherrie Hoff, Cameron Hoff, Matthew Jordan, Kristina Key, Kimberly Koch, Jill Mitchell, James Neely, Patience Neely, Tammy Neely, Lauryn Votano, Victoria Votano, Bridget Walls, and Donnie Walls are all Texas residents who were exposed due to their physical proximity to Anthony Pellegrini and/or his former residence on E. Knox Drive in Porter, Texas.

3. Plaintiffs Johnny Au, Maurice Price, and Donald Burg, decedents, were employees of Thermo that worked at the facility during the time in which the leak(s) occurred.

4. Plaintiffs Phuong Mai Nguyen, Lois Burg, and Callie Price, are represented as individuals and on behalf of their deceased husbands, Johnny Au, Donald Burg, and Maurice Price respectively. Christopher Price, Demetrius Price, Maurice Price Jr., Jacob Burg, and Joshua Burg all allege consortium claims for Maurice Price and Donald Burg, respectively.

5. Defendant Thermo is a foreign corporation organized and existing under and by virtue of Delaware law having its principal place of business at 168 Third Street, Waltham, MA 02451. Thermo has done and is doing business in the State of Texas and in this District and Division, and this public liability action arises out of the business done by Thermo in this state. No service is

requested at this time, as the parties have fully negotiated and resolved this claim, and Defendant has agreed to appear.

II. VENUE AND JURISDICTION

6. Venue is proper in this district and division because all of the events at issue occurred in this district, and the parties have agreed to venue in this court for the purpose of seeking approval of their resolution of claims.

7. This action arises under the United States Price-Anderson Act, 42 U.S.C. § 2210 et seq. The Price-Anderson Act provides an express grant of jurisdiction to this Court to consider Plaintiffs' claims. Because this is a "public liability action" under the Price-Anderson Act, the entire suit, including Plaintiffs' state law claims, is deemed to be an action arising under federal law. 42 U.S.C. § 2014(hh).

III. ALLEGATIONS

8. Plaintiffs are both former Thermo employees who allege that they were exposed to radioactive and other materials ("Employee Plaintiffs") and non-Thermo employees who allege that they were exposed to radioactive and other materials due to their close proximity with certain Thermo employees' persons and property ("Non-Employee Plaintiffs").

9. This case arises out of an incident that occurred on or about April 14, 2015 when an Employee Plaintiff was working with a Cesium-137 source at Thermo's facility in Sugar Land, Texas. While working with the source, Cesium-137 was released. As a result, not only Employee Plaintiffs, but also Non-Employee Plaintiffs, allege that they were exposed to radiation, and Plaintiffs' homes, automobiles, and other personal property were exposed. Thermo ultimately shut down the Sugar Land Facility.

10. While responding to the Cesium-137 release, Thermo discovered Americium-241 from a prior release at the Sugar Land Facility. Subsequent testing revealed that some Thermo employees and their property were exposed to Americium-241.

11. As a direct and proximate cause of Thermo's actions and negligent conduct, Plaintiffs allege that they have suffered and will continue to suffer bodily injuries and property damage. Accordingly, Plaintiffs bring the following causes of action against Thermo.

IV. CAUSES OF ACTION

12. Plaintiffs allege that Thermo's actions constituted violations of the Price Anderson Act, under 42 U.S.C. §2210 et seq. Plaintiffs allege the Thermo's actions resulted in exposure beyond the federal dose limits permissible under 10 C.F.R. Part 20 (2010), and seek damages for these violations pursuant to 42 U.S.C. § 2014(hh); § 2210.

13. Alternatively, Plaintiffs seek actions for negligence, gross negligence, negligence *per se*, assault and battery, private and public nuisance, trespass to real property, misrepresentation and concealment, and finally wrongful death and survival.

V. CONCLUSION

14. In the unlikely occurrence that the Court is not able to enter a Final Judgment because of unresolved claims, Plaintiffs will seek leave to file an amended complaint and Plaintiffs will pursue their claims against Defendant.

V. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that on final trial or hearing, they recover:

1. compensatory damages;
2. punitive damages;
3. prejudgment interest;
4. post-judgment interest;
5. costs of Court; and
6. Such other and further relief to which Plaintiffs may be justly entitled, including all relief described in the Agreement approved by the parties, to be submitted to the court for approval, to assure the interests of the minors are adequately protected.

Respectfully submitted,

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